WILLS — EXECUTION — ATTESTING WITNESSES: ESTABLISHMENT OF LOST WILL WHERE ATTESTING WITNESSES UNKNOWN. — In an action to establish a lost will, adequate evidence was given of the contents and that the will was duly attested, but there was no evidence as to the names of the attesting witnesses. *Held*, that probate be granted. *In re Estate of Phibbs*, 33 T. L. R. 214.

A lost will may be established upon satisfactory proof of its due execution, of its destruction or loss, and of its contents. *Podmore* v. *Whatton*, 3 Sw. & Tr. 449. See *In re Hedgepeth's Will*, 150 N. C. 245, 250, 63 S. E. 1025, 1027. Proof of execution is a necessary preliminary to further proceedings. *Voorhees* v. *Voorhees*, 39 N. Y. 463. In the case of a lost will, just as when the document is actually produced, to prove execution the attesting witnesses must be called if accessible. See *In the Matter of Page*, 118 Ill. 576, 8 N. E. 852. If they are dead or beyond the jurisdiction of the court, other evidence may be used to prove execution. *Bailey* v. *Stiles*, 2 N. J. Eq. 220. See *Harris* v. *Tisereau*, 52 Ga. 153, 163. But when the witnesses are unknown it has been said that probate must fail, since it is impossible to call them or to show their inability to testify and thus to lay the foundation for the admission of other evidence. *Collyer* v. *Collyer*, 4 Dem. Surr. (N. Y.) 53, 60. On the contrary, however, it would seem that this fact in itself should be sufficient explanation of absence to warrant use of other evidence, since the circumstances permit nothing more. The court indeed might be led to greater strictness in determining the sufficiency of evidence. But relief should not be refused, if, as in the principal case, the other evidence of due execution is satisfactory. See *Dan* v. *Brown*, 4 Cow. (N. Y.) 483. *Cf. Jackson* v. *Vail*, 7 Wend. (N. Y.) 125.

BOOK REVIEWS

THE LAW OF INTERSTATE COMMERCE AND ITS FEDERAL REGULATION. By Frederick N. Judson. Third Edition. Chicago: T. H. Flood and Company. 1916. pp. xxix, 1066.

The application of the Commerce Clause divides with the issues raised by the limitation imposed upon state legislation by the Fourteenth Amendment the present energies of constitutional law. Judicial, as well as legislative, law-making in rich abundance calls for a revision of the conventional assumptions as to the scope of federal regulation in the field of interstate commerce. Great areas of industrial activities, hitherto left either unregulated or made the prey of conflicting state regulations, have felt the impact of the national power. The Adamson Law and the Child Labor Law and the Bone Dry Law raise legal questions of intense excitement because they touch so widely and so intimately the processes of our national life. But the courts as well as Congress have caused ferment. In the Shreveport decision (*Houston & Texas Ry.* v. *United States*, 234 U. S. 342) the Supreme Court in fact merely applied old provisions of the Interstate Commerce Act to a new situation. In effect, however, the court, by the Shreveport doctrine, has given the strongest impulse to the movement to make the federal government supreme in the whole domain of railroad rate regulation, affecting both intrastate or interstate shipments. (See *e. g.* the recent report of the Interstate Commerce Commission in *Memphis* v. *C. R. I. & P. Ry. Co.*, 43 Int. Com. Rep. 121.) Similarly, in working out the relation of foreign corporations to interstate commerce, and the resulting limitation upon state regulation of such corporations, we are getting a new body of judicial law, reversing in result and sometimes in terms earlier notions of constitutional law. (See *e. g. Western Union Co.* v. *Kansas*, 216 U. S. 1; *Pullman Co.* v. *Kansas*, 216 U. S. 56; *Harrison* v. *St.*